

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BILLY ROY TYLER,	)	
	)	
Plaintiff,	)	4:05CV3164
	)	
vs.	)	PRISONER PAYMENT ORDER
	)	
CALVIN HAYWOOD, et al.,	)	
	)	
Defendants.	)	

The plaintiff has filed a civil rights complaint (filing no. 1), and a motion for leave to proceed in forma pauperis (filing no. 2). However, under the Prison Litigation Reform Act ("PLRA"), in forma pauperis status shall not be granted to a prisoner who:

has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g) ("three strikes' provision").

The records of this court show that the plaintiff has filed more than three complaints which have been dismissed as frivolous, malicious or for failing to state a claim upon which relief can be granted. Therefore, the "three strikes" provision applies to the plaintiff, and he may not proceed in forma pauperis unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). No such imminent danger of physical injury is apparent from the plaintiff's complaint.

Because the plaintiff does not meet the exception to the "three strikes" provision of the PLRA, he may proceed in this litigation only if he pays the entire \$250 filing fee to the Clerk of Court. I will require such payment by **September 15, 2005**.

THEREFORE, IT IS ORDERED:

1. That filing no. 2, the plaintiff's application for leave to proceed in forma pauperis, is denied;
2. That the plaintiff is given until on or before **September 15, 2005**, to pay the entire \$250.00 filing fee to the Clerk of Court, and partial payments of the \$250.00 filing fee

will not be accepted; and

3. That in the absence of such payment, this case will be subject to dismissal.

DATED this 2<sup>nd</sup> day of August, 2005.

BY THE COURT:

\_\_\_\_\_  
s/F.A. GOSSETT  
United States Magistrate Judge